

REMARKS

Applicant thanks the Examiner for his thoughtful review of the present application.
The status of the claims is as follows:

- a. **Claims 1, 3-5, 7-9, 15-17 and 21-27** are **Pending** in the present application.
- b. **Claims 1, 3-5, 7-9, 15-17 and 21-27** are rejected.
- c. **Claims 1, 15 and 24** have been amended for clarification to recite "...the media data stream comprising
compressed anchor frames;
a plurality of compressed bi-directionally predicted frames (B-frames) which are associated with the compressed anchor frames; and
a table of contents (TOC) which points to the location in the media data stream where each frame in the stream begins...".
- d. **Claims 1, 3-5, 7-9, 15-17 and 21-27** remain pending.

i. PRESENT AMENDMENT

Independent **Claims 1, 15 and 24** were amended to distinctly point out and particularly claim the subject matter the Applicant regards as his invention. Specifically, those claims have been amended to recite: "...the media data stream comprising
compressed anchor frames;
a plurality of compressed bi-directionally predicted frames (B-frames) which are associated with the compressed anchor frames; and
a table of contents (TOC) which points to the location in the media data stream where each frame in the stream begins...". Support for the amendments to **Claims 1, 15 and 24** can at least be found in **FIG. 4** of the **Drawings** and in **paragraph [0064]** of the **Detailed Description**. No new matter has been introduced with the amendment of this application.

ii. **ARGUMENT**

1. Claim Rejections – 35 U.S.C. §103

The standard for making an obviousness rejection is currently set forth in MPEP 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. **First**, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. **Second**, there must be a reasonable expectation of success. **Finally**, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The ***teaching or suggestion*** to make the claimed combination **and the *reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.*** (emphasis and formatting added) MPEP § 2143, *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. “To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a ***convincing line of reasoning*** as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). (emphasis added).

See also, KSR International Co. v. Teleflex Inc., No. 04-1350, 550 U.S. ____ (2007).

The Office Action fails to meet this burden. As noted above, the PTO has the burden of establishing a *prima facie* case of obviousness under 35 USC §103. The Patent Office must show that some reason to combine the elements with some rational underpinning that would lead an individual of ordinary skill in the art to combine the relevant teachings of the references. *KSR International Co. v. Teleflex Inc.*, No. 04-1350, 550 U.S. ____ (2007); *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). Therefore, a combination of relevant teachings alone is insufficient grounds to establish obviousness, absent some reason for one of ordinary skill in the art to do so. *Fine* at 1075. In this case, the Examiner has not pointed to any cogent, supportable reason that would lead an artisan of ordinary skill in the art to come up with the claimed invention.

None of the references, alone or in combination, teaches the unique features called for in the claims. It is impermissible hindsight reasoning to pick a feature here and there

from among the references to construct a hypothetical combination which obviates the claims.

It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps. [*citation omitted*]

In re Gordon, 18 USPQ.2d 1885, 1888 (Fed. Cir. 1991).

A large number of devices may exist in the prior art where, if the prior art be disregarded as to its content, purpose, mode of operation and general context, the several elements claimed by the applicant, if taken individually, may be disclosed. However, the important thing to recognize is that the reason for combining these elements in any way to meet Applicants' claims only becomes obvious, if at all, when considered from hindsight in the light of the application disclosure. The Federal Circuit has stressed that the "decisionmaker must step backward in time and into the shoes worn by a person having ordinary skill in the art when the invention was unknown and just before it was made." *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1566 (Fed. Cir. 1987). To do otherwise would be to apply hindsight reconstruction, which has been strongly discouraged by the Federal Circuit. *Id.* at 1568.

To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.

W.L. Gore & Assoc. v. Garlock, Inc., 721 F.2d 1540, 1553 (Fed. Cir. 1983).

Therefore, without some reason in the references to combine the cited prior art teachings, with some rational underpinnings for such a reason, the Examiner's conclusory statements in support of the alleged combination fail to establish a prima facie case for obviousness. See, *KSR International Co. v. Teleflex Inc.*, No. 04-1350, 550 U.S. ___ (2007) (obviousness determination requires looking at "whether there was an apparent reason to combine the known elements in the fashion claimed...", citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness," *KSR* at 14).

a. **Rejection of Claims 1, 3-5, 7-8, 15-17 and 21-27 under 35 U.S.C. §103(a) (043, 282 References)**

The Applicant respectfully traverses the rejection of independent **Claims 1, 15 and 24** as being unpatentable over US Patent **6,536,043** to *Guedalia* in view of US Patent **5,903,282** to *Schoner*.

Guedalia generally discloses a system for transmitting digital data representing an original over plural transmission links, at least of which have limited bandwidth, including a digital data source storing digital data representing the original, a digital data receiver receiving the digital data representing the original via one of the plural transmission links having limited bandwidth and a digital data transmitter operative to transmit the digital data representing the original to the receiver over a transmission link having a limited bandwidth in plural blocks which are sequentially transmitted at a rate determined by the limited bandwidth, each block being an incomplete collection of data which includes parts of multiple frames, each frame being viewable in a selectable order by the receiver even when less than all of the plural blocks have been received, receipt of subsequent blocks by the receiver being used to cumulatively improve the quality of the digital data viewed by the receiver.

However, as admitted by the Examiner, *Guedalia* does not explicitly teach a plurality of compressed bi-directionally predicted frames (B-frames) which are associated with the anchor frames as recited in the independent claims. Consequently, the *Guedalia* reference does not teach every element of the recited in the independent claims.

The Examiner proposes to combine the *Schoner* reference with the *Guedalia* reference to cure *Guedalia's* above-delineated defect. *Schoner* discloses a video decoder which uses a dynamic memory allocation scheme having additional buffer read pointers for implementing a freeze mode. The additional buffer read pointers advantageously allow for implementation of a freeze mode on a dynamic memory allocation architecture. In one embodiment, the video decoder includes an MPEG bitstream decoder, FIFO buffer logic, a free segment register, and a display processor. The video decoder decodes an encoded bitstream to obtain image data for storage in an external memory, and the display processor retrieves the image data for display on a monitor. To conserve memory, the bitstream decoder stores only anchor frames as complete images in the external memory, and bi-directional images are stored in dynamically allocated memory segments. Free

memory segments are determined by examination of a free segment register, and pointers to the memory segments having image data are passed to the display processor via the FIFO buffers. The display processor removes pointers to memory segments from the FIFO buffers and de-allocates the corresponding memory segments in normal operation. In freeze mode, the display processor leaves the pointers to the memory segments in the FIFO buffer and discontinues the de-allocation. The additional read pointers are used to "loop" through the pointers held in the FIFO buffer to allow the display to continually re-scan the frozen image.

Again, the Examiner purports to combine the *Schoner* reference with the *Guedalia* reference to cure *Guedalia's* above-delineated defect. However, a prima facie case of obviousness under **35 U.S.C. §103(a)** requires that all claim limitations be taught or suggested by the cited prior art references and there must be a teaching, a suggestion, or a motivation to combine or modify the references to arrive at the claimed invention.

In this particular instance, The Examiner asserts that *Guedalia* discloses "...a table of contents (TOC) which points to the location in the media data stream where each frame in the stream begins..." at col. 28 Ln 10-49 which is reproduced herein below:

Reference is now made to FIG. 3A which shows a preferred database structure in accordance with a preferred embodiment of the present invention. It is a particular feature of the present invention that three databases are employed, a server database 41, which is arranged in a serial form, containing multiple data blocks, each including multiple partial frame data, a client database 42 which is arranged in a two dimensional structure, conceptually illustrated in FIG. 3B and an interactive database 43 which contains a single data block including multiple frames, which is dynamically updated from the client database 42. In an alternative embodiment of the invention, wherein extremely high processing speeds are available at the client, the client database could be eliminated.

It is a particular feature of the present invention that interactive data streaming is provided. The use of three databases as described above enables interactive data streaming to be achieved in an efficient and cost effective manner. The use of databases having a two-dimensional structure greatly simplifies the data processing.

Server database 41, which is archived on a server constitutes a first database of the progressive scalable database. The server database 41 includes a plurality of data blocks in encoded form. As seen particularly in FIG. 3B, the progressive scalable database is two-dimensional in nature. It has a progressive dimension indexed by block number, and an interactive dimension indexed by frame number but it is serialized for streaming and can only be accessed sequentially. Server database 41 is streamed from server to client via the transmission and buffering protocol of the Internet browser.

Client database 42, the second database, is built up on the client side as the information streams in, to mirror the server database 41. Client database 42 is truly two-dimensional, with random access capability within the data blocks. The data blocks within it are also in encoded form.

Here the Examiner is equating a multiple database system that organizes the frames by numbers, as disclosed by *Guedalia*, with the TOC recited in independent **Claims 1, 15 and 24**. Applicant respectfully disagrees with the Examiner's line of reasoning. The TOC recited in independent **Claims 1, 15 and 24** points to the location in the media data stream where each frame in the stream begins and is a component of the received media data stream. This is clearly different from the multiple database system disclosed by *Guedalia*. Consequently, the *Guedalia* reference does not disclose "...the media data stream comprising compressed anchor frames; a plurality of compressed bi-directionally predicted frames (B-frames) which are associated with the compressed anchor frames; and a table of contents (TOC) which points to the location in the media data stream where each frame in the stream begins..." as recited in independent **Claims 1, 15 and 24**.

Accordingly, since the *Guedalia* reference does not disclose "...the media data stream comprising compressed anchor frames; a plurality of compressed bi-directionally predicted frames (B-frames) which are associated with the compressed anchor frames; and a table of contents (TOC) which points to the location in the media data stream where each frame in the stream begins..." as recited in independent **Claims 1, 15 and 24**, the *Guedalia*/Schoner combination of references does not teach each and every element recited in independent **Claims 1, 15 and 24**. Hence, the rejection of independent **Claims 1, 15 and 24** as being unpatentable over US Patent **6,536,043** to *Guedalia* in view of US Patent **5,903,282** to *Schoner* under **35 U.S.C. §103(a)** should be withdrawn.

Claims 3-5, 7-8, 16-17, 21-23 and 25-27 depend from independent **Claims 1, 15** and **24** respectively and inherit all of their limitations. Therefore, **Claims 3-5, 7-8, 16-17, 21-23 and 25-27** are also patentably distinct in light of US Patent **6,536,043** to *Guedalia* in view of US Patent **5,903,282** to *Schoner* and the rejections of **Claims 3-5, 7-8, 16-17, 21-23 and 25-27** under **35 U.S.C. §103(a)** ought to now be withdrawn.

iii. CONCLUSION

Applicant now believes the present case to be in condition for allowance. Therefore, the Applicant respectfully requests a Notice of Allowance for this application from the Examiner.

It is believed that all of the pending Claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending Claims (or other Claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any Claim, except as specifically stated in this paper, and the amendment of any Claim does not necessarily signify concession of unpatentability of the Claim prior to its amendment.

Applicant believes that no fees are currently due, however, should any fee be deemed necessary in connection with this Amendment and Response, the Commissioner is authorized to charge deposit account 08-2025.

Respectfully submitted,

/Wendell J. Jones/

Wendell J. Jones

Reg. No. **45,961**